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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON

7 ELLIOT D. GOODIN,

8 Plaintiff,

9 v.

10 DR. GREGORY BAHDER,

11 Defendant.

NO. 2:17-CV-0347-TOR

ORDER DISMISSING PLAINTIFF'S
COMPLAINT AND DENYING
LEAVE TO AMEND

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13 BEFORE THE COURT is Plaintiff's Complaint. ECF No. 7. The Court has
14 reviewed the record and files herein, and is fully informed. For the reasons
15 discussed below, all claims asserted in Plaintiff's Complaint (ECF No. 7) are
16 **DISMISSED WITHOUT LEAVE TO AMEND.**

17 Plaintiff, a patient at Eastern State Hospital, is proceeding *pro se* and *in*
18 *forma pauperis*. ECF No. 6. Plaintiff complains that Dr. Bahder stated he could
19 not take Plaintiff off restrictions without the treatment team present, but then let
20 Jason Goodpaster off restrictions without the treatment team. ECF No. 7 at 5.

1 Plaintiff argues he was discriminated against because he is African American and
2 Native American, while Mr. Goodpaster is Caucasian. *Id.*

3 Plaintiff has a pending action in this Court against Dr. Bahder, which was
4 dismissed three times without prejudice and with leave to amend a fourth time.
5 2:17-CV-0217-TOR, ECF No. 11. There, Plaintiff alleged that Dr. Bahder told
6 Plaintiff “that he can’t take any[]body off restrictions without the team [there],” but
7 took Mr. Goodpaster off restrictions without the team being present. 2:17-CV-
8 0217-TOR, ECF No. 9 at 2.

9 The Court finds that Plaintiff’s claims are identical to those already the
10 subject to dismissal and amendment in his previous action.¹ Plaintiff may assert
11 his claims against Dr. Bahder in a Fourth Amended Complaint in the pending case,
12 rather than initiating this new cause of action. Plaintiff, proceeding *in forma*
13 *pauperis*, is not entitled to file duplicative suits at the public’s expense. There is
14 no abuse of discretion where a district court dismisses under § 1915[] a complaint

15 ¹ Plaintiff also filed a Supplement to the Complaint, which is an Eastern State
16 Hospital Patient Complaint Form against Michelle an RN3 who allegedly took
17 Plaintiff’s remote time from him. ECF No. 5. The Court finds that this form is not
18 relevant, as Michelle is not a party to this action.
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1 “that merely repeats pending or previously litigated claims.” *Cato v. United States*,
2 70 F.3d 1103, 1105 n.2 (9th Cir. 1995) (quoting *Bailey v. Johnson*, 846 F.2d 1019,
3 1021 (5th Cir. 1988)). Accordingly, the Court dismisses Plaintiff’s Complaint and
4 this case and without leave to amend.

5 Pursuant to 28 U.S.C. § 1915(a)(3), “[a]n appeal may not be taken *in forma*
6 *pauperis* if the trial court certifies in writing that it is not taken in good faith.” The
7 good faith standard is an objective one, and good faith is demonstrated when an
8 individual “seeks appellate review of any issue not frivolous.” *See Coppedge v.*
9 *United States*, 369 U.S. 438, 445 (1962). For purposes of 28 U.S.C. § 1915, an
10 appeal is frivolous if it lacks any arguable basis in law or fact. *Neitzke v. Williams*,
11 490 U.S. 319, 325 (1989).

12 The Court finds that any appeal of this Order would not be taken in good
13 faith and would lack any arguable basis in law or fact. Accordingly, the Court
14 hereby revokes Plaintiff’s *in forma pauperis* status. If Plaintiff seeks to pursue an
15 appeal, he must pay the requisite filing fee.

16 **ACCORDINGLY, IT IS HEREBY ORDERED:**

- 17 1. The claims asserted in Plaintiff’s Complaint (ECF No. 7) are **DISMISSED**
18 **and WITHOUT LEAVE TO AMEND.**
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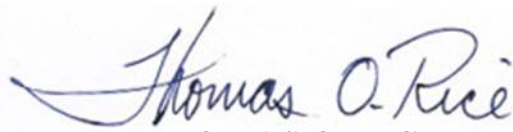
1 2. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of this
2 Order would not be taken in good faith and would lack any arguable basis in
3 law or fact. Plaintiff's *in forma pauperis* status is hereby **REVOKED**.

4 The District Court Executive is directed to enter this Order, and Judgment
5 accordingly, forward copies to Plaintiff, and **CLOSE** the file.

6 **DATED** December 14, 2017.



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THOMAS O. RICE
Chief United States District Judge